

SENATE Judiciary  
Exhibit No. 3  
Date 2/11/15  
Bill No. SB 223  
**JUDITH BASIN COUNTY JUSTICE OF THE PEACE**  
Judge Larry Carver  
P.O. Box 339  
Stanford, Mt 59479  
(406-566-2277, Ext.117)

To: The 2015 House Judiciary Committee for the hearing on HB 223  
RE: SB 223 – An act revising bail bond laws

I apologize to the committee for not being able to be present at the committee hearing for Senate Bill 223. A busy court schedule would not allow a personal appearance today. I am the chairman of the Legislative Committee for the Montana Magistrates Association which is the association of all the Limited Courts, Justice Courts, Municipal Courts and City Courts in the State of Montana, approximately 109 limited court judges. We strongly oppose the passage of this bill as it will greatly affect the procedures of the limited courts and traffic violations.

Section 1 and section 2 of this bill only allows the court to receive the total amount of the set bail at the time of posting. Technically, when a person gets a traffic ticket and wants to pay the ticket with an officer without having to appearing in court, (see 46-9-302) or mail the amount requested on the citation to court, this process is considered the posting of an appearance bond, (bail). Please view the attached ticket and notice the wording in the bottom right hand corner. Total Appearance Bond Received. The language of this bill will require all tickets to be paid in full or require the defendant to appear in court to enter a plea, receive a fine and be put on time pay contract. I routinely have people that live over 100 miles away that simply want to pay the ticket in lieu of an appearance. Many of these folks cannot afford to drive 200 miles round trip to appear in court to enter a plea, be sentenced to pay a fine on an installment plan. Many of these offenses are non-jailable offenses that they do not have the total amount for. An example would be a \$285.00 no insurance ticket that they are willing to pay in installments of \$50.00 per month but unable to pay in full. No arrest has been made. Simply a ticket has been issued. This language requires appearance bonds to be paid in full and eliminates the courts ability to accept anything less.

The process of courts accepting time-pay bail bonds has been approved by the Attorney General. The attorney general states :

Authority of Municipal Court to Grant Time-Pay Bail Bonds: A time-pay bail bond system, which allows a defendant to make payments in monthly or weekly installments in an amount and frequency set by a court to correspond with the requirement that the defendant pay the full bail amount before the date of trial, promotes the constitutional policy of providing bail except in capital cases. The system also comports with statutory requirements that the bail amount not be oppressive and be considerate of the defendant's financial ability. The system requires a defendant to pay cash for the bond, albeit in installments paid over a period of time. Because a court has discretion to set the appropriate bail amounts and to accept personal property in lieu of cash, the court also has discretion to set the timing on the payment of any cash bond. Therefore, a Municipal

Court Judge is authorized to release a defendant on a time-pay bail bond in an amount set by the judge to be paid in installments. 49 A.G. Op. 18 (2002).

Next, section 2 of the bill extends the time period from 90 days to 180 days for the surety to surrender the defendant to the court after forfeiture. Forfeitures occur for non-appearances in court. The intent of the law is for courts and prosecutors to bring misdemeanors to trial within 6 months from the date of the plea. The surety now has six more months to bring him to court after his non-appearance. How is that going to work?

Finally, section 4 of the bill states that the defendant cannot be surrendered to the court if he has an outstanding obligation to a surety company. First off, how does the court know whether or not the defendant has an outstanding obligation? A surety bond is a contract between the bonding company and the defendant. Routinely, a surety will surrender a defendant to the court whenever the bondsman believes the defendant may flee the jurisdiction of the court. The surety does not need permission of the court to do this and only needs to notify the court after surrendering. All the bondsman needs to believe is that the defendant is going to run. The bondsman is simply protecting his investment. However, pursuant to section 4, the surety now can no longer arrest or stop a defendant from fleeing the jurisdiction of the court if he has unpaid fees to the surety company. That doesn't make any sense. This bypasses the duty the surety has with the court.

For this reason, the Montana Magistrates respectfully requests that this committee vote NO for the passage of SB 223.

Respectfully submitted by Larry Carver, Justice of the Peace



---

Montana Magistrates Association, Chairman Legislation



COURT  
COPY

NOTICE TO APPEAR AND COMPLAINT

ISSUED BY

JUDITH BASIN COUNTY SHERIFF DEPT. C36A

04876

- ☐ STATE OF MONTANA )  
☐ COUNTY OF \_\_\_\_\_ ) vs.  
☐ CITY OF \_\_\_\_\_ )

**YOU ARE HEREBY GIVEN  
NOTICE TO APPEAR IN**

- ☐ JUSTICE ☐ CITY ☐ YOUTH ☐

COURT OF JUSTICE CARVER DEPT# 480

COUNTY OF JUDITH BASIN

LOCATED AT COURTHOUSE

P.O. BOX 339, STANFORD, MONTANA 59479

ON OR BEFORE \_\_\_\_\_ AM/PM ON

THE \_\_\_\_\_ DAY OF \_\_\_\_\_  
TO ANSWER THIS CHARGE. FAILURE TO APPEAR IN COURT OR PAY  
ASSESSED FINES, COSTS OR RESTITUTION MAY RESULT IN THE  
SUSPENSION OF YOUR DRIVER'S LICENSE OR PRIVILEGE TO  
DRIVE.

**PERSONAL APPEARANCE IN COURT REQUIRED  
IF BOX IS CHECKED.** ☐

☐ Felony

ID # \_\_\_\_\_

Det # \_\_\_\_\_

Radar # \_\_\_\_\_

Primary Reason  
For Traffic Stop:

- ☐ Crash  
☐ Aircraft  
☐ Arrested  
☐ B/A Test Given  
☐ B/A Test Refused

PHONE  
406-566-2277 x 117

DEFENDANT (F/M/L)

STREET

VEHICLE LICENSE NO.

CITY

ST

ZIP

LICENSE STATE

SEX

WT.

HT.

HAIR

EYES

DOB

VEHICLE MAKE

D/L #

D/L STATE

DOT OR ICC#

VEH. COLOR

VEH. YEAR

HOME PHONE

BUSINESS NAME

BUS. PHONE

VEH. MODEL

VEHICLE TYPE

- ☐ CAR ☐ PICKUP  
☐ M/C ☐ TRK/TRL  
☐ TRUCK ☐ CMV  
☐ \_\_\_\_\_ ☐ CMV/HAZ

**THE ABOVE NAMED DEFENDANT IS CHARGED WITH VIOLATING**

☐ MONTANA CODE ☐ TRIBAL CODE ☐ COUNTY ORDINANCE ☐ CITY CODE

☐ \_\_\_\_\_ SECTION NO. \_\_\_\_\_ SUB. \_\_\_\_\_

ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ AT \_\_\_\_\_ MILITARY TIME

**IN THAT SAID DEFENDANT DID KNOWINGLY OR PURPOSELY  
OR NEGLIGENTLY COMMIT THE FOLLOWING OFFENSE:**

UNIFORM VIOLATION CODE

LOCATION

LOCATION  
CODE

I hereby swear that all information contained  
on this document is true and correct to the best  
of my knowledge.

OFFICER SIGNATURE

**TOTAL APPEARANCE**

\$

**BOND RECEIVED**

DOCKET  
NUMBER